

**\*Revised 4/8/10**

**AGENDA  
ZONING COMMITTEE  
OF THE SAINT PAUL PLANNING COMMISSION  
Thursday, April 15, 2010 3:30 P.M.  
City Council Chambers  
Third Floor City Hall - Saint Paul, Minnesota**

**NOTE:** The order in which the items appear on this agenda is not necessarily the order in which they will be heard at the meeting. The Zoning Committee will determine the order of the agenda at the beginning of its meeting.

**APPROVAL OF APRIL 1, 2010 ZONING COMMITTEE MINUTES**

**SITE PLAN REVIEW** – List of current applications (Tom Beach, 651-266-9086)

**OLD BUSINESS**

- 1      10-121-250 Shamrock's**  
Variances for new parking lot: 1) 300 feet maximum from building served permitted, 450 feet proposed; and  
2) setback from Osceola right-of-way (7 ft. required, 4 ft. proposed)  
670 Juno Ave  
B2  
Luis Pereira      651-266-6591
- 2      10-116-425 Clear Wireless LLC**  
Conditional Use Permit for a wireless communications antenna on a 100 ft monopole  
1675 5<sup>th</sup> St E  
R4  
Sarah Zorn      651-266-6570
- 3      10-123-489 University of St. Thomas**  
Modification of conditional use permit requirement that off-street parking spaces for college athletic facilities  
be within 600 feet of the building to be served  
2115 Summit Ave, Area bounded by Selby, Cleveland, Grand, Cretin, Mississippi River Blvd., Goodrich and  
Summit  
R2  
Josh Williams      651-266-6659
- 4      10-122-449 St. Thomas Student Center**  
Site plan review for new student center  
2115 Summit Ave  
R2  
Tom Beach      651-266-9086

**NEW BUSINESS**

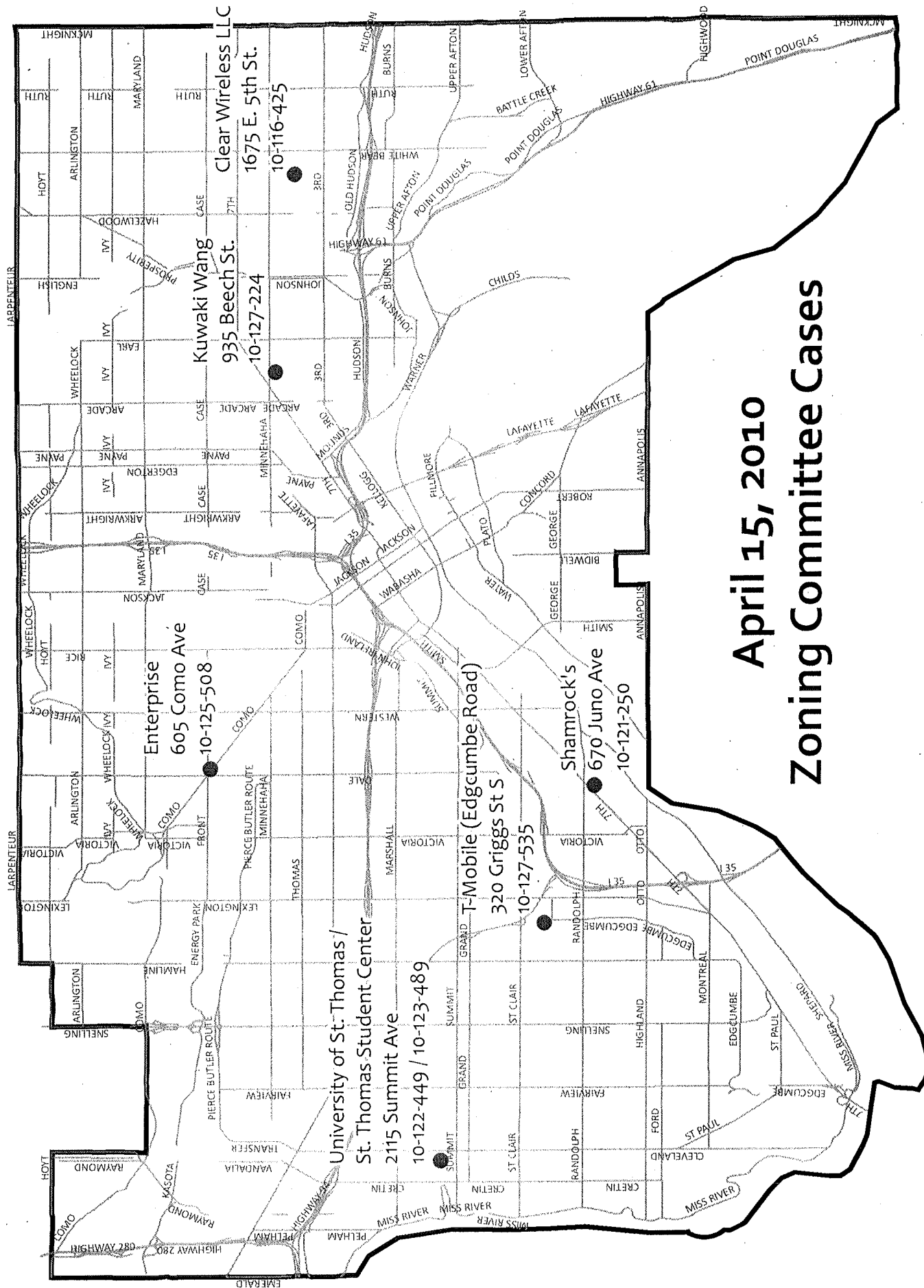
- 5      10-127-224 Kuwaki Wang**  
Re-establishment of nonconforming use as a 4-unit residential building  
935 Beech St, NW corner at Forest  
RT1  
Luis Pereira      651-266-6591

- 6      **10-127-535 T-Mobile (Edgcumbe Rec)**  
Conditional Use Permit for a wireless communications antenna on a 75 ft monopole  
320 Griggs St S, NE corner at Jefferson  
R4  
Sarah Zorn      651-266-6570
- 7      **\*10-125-508 Enterprise**      **POSTPONED TO MAY 13, 2010**  
~~Conditional Use Permit for outdoor auto rental~~  
~~605 Como Ave, SE corner at Front St~~  
~~B3~~  
~~Emily Goodman 651-266-6554~~

**ADJOURNMENT**

**ZONING COMMITTEE MEMBERS:** Call Allan Torstenson at 266-6579 or Samantha Langer at 266-6550 if you are unable to attend the meeting.

**APPLICANT:** You or your designated representative must attend this meeting to answer any questions that the committee may have.



# April 15, 2010 Zoning Committee Cases

Enterprise  
605 Como Ave  
10-125-508

Kuwaki Wang  
935 Beech St.  
1675 E. 5th St.  
10-127-224  
10-116-425

University of St. Thomas /  
St. Thomas Student Center  
2115 Summit Ave  
10-122-449 / 10-123-489

T-Mobile (Edgumbe Road)  
320 Griggs St S  
10-127-535

Shamrock's  
670 Juno Ave  
10-121-250

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Shamrock's **FILE #:** 10-121-250
  2. **APPLICANT:** Mike Runyon & Ted Casper **HEARING DATE:** April 15, 2010
  3. **TYPE OF APPLICATION:** Variance
  4. **LOCATION:** 670 Juno Ave, SE corner of Juno and Osceola
  5. **PIN & LEGAL DESCRIPTION:** 112823410192; D R Burbank Addition Part Nwly Of Ry R/w Of Lot 12 & Lot 13 Blk 1
  6. **PLANNING DISTRICT:** 9 **PRESENT ZONING:** TN2
  7. **ZONING CODE REFERENCE:** §61.601; §63.304; §63.314(a)
  8. **STAFF REPORT DATE:** ~~March 18, 2010~~ **REVISED April 7, 2010** **BY:** Luis Pereira
  9. **DATE RECEIVED:** March 4, 2010 **60 DAY DEADLINE FOR ACTION:** May 3, 2010
- 

- A. **PURPOSE:** Variance for new parking lot at 670 Juno Avenue: 1) 300 feet maximum from building served permitted, 450 feet proposed
- B. **PARCEL SIZE:** 4,400 square feet (0.10 acres)
- C. **EXISTING LAND USE:** Undeveloped (unimproved)
- D. **SURROUNDING LAND USE:**
  - West: Single Family Detached (B2 and RT2)
  - East: Undeveloped former right-of-way for railroad (TN2)
  - North: Medical clinic/office building (TN2)
  - South: Undeveloped former right-of-way for railroad (TN2)
- E. **ZONING CODE CITATION:** §61.202(b) authorizes the planning commission to grant variances when related to permits, using the required findings of §61.601; §63.304 specifies requirements for nonresidential off-street parking; §63.314(a) specifies landscaping requirements for off-street parking facilities.
- F. **HISTORY/DISCUSSION:** No zoning history was found for this property. This variance application is also accompanied by a separate application to rezone 670 Juno Ave from TN2 to B2 (Z.F. #10-119-666), which the Zoning Committee recommended approval of on April 1, 2010. Section §63.304. *Parking location, nonresidential* requires nonresidential off-street parking located in a non-contiguous zoning lot to be located within the VP vehicular parking district or within the same or less restrictive zoning district as the principal use. Because 670 Juno Ave is currently zoned TN2, which is a more restrictive zoning district than B2 (the district within which the applicant's restaurant/bar business is located at 995 W. 7<sup>th</sup> Street), the applicant has proposed to rezone 670 Juno Ave to B2 to match the zoning of 995 W. 7<sup>th</sup> Street.
- G. **DISTRICT COUNCIL RECOMMENDATION:** District 9 had not provided a written recommendation on this rezoning at the time the staff report was composed.
- H. **FINDINGS:**
  1. The property owner of 670 Juno, MCD Agency LLC, is also the owner of 995 W. 7<sup>th</sup> Street LLC and Shamrock's Bar and Grill on West 7<sup>th</sup> Street. The bar/restaurant owners have plans to expand Shamrock's Bar from its current location at 995 W. 7<sup>th</sup> Street to include adjacent property to the northeast at 985 W. 7<sup>th</sup> Street. The building expansion would normally require 32 additional off-street parking spaces, as per Department of Safety and Inspections staff analysis. The building expansion will also include the development of the land behind 985 West 7<sup>th</sup> Street, formalizing it as an improved parking lot (but not to be counted toward parking for the building expansion).
  2. The owners of Shamrock's Bar recently applied for and the BZA approved on March 8, 2010 several variances associated with the business expansion to include 985 W. 7<sup>th</sup> Street. Conditions on these variances include that the applicants must obtain a shared parking



agreement or otherwise provide 16 additional parking spaces within one year, and that the parcels at 995 W. 7<sup>th</sup> Street and 985 W. 7<sup>th</sup> Street must be combined under a single tax identification – at 995 W. 7<sup>th</sup> Street.

3. This application for one Planning Commission variance for 670 Juno Avenue is part of an effort to comply with the BZA condition to provide additional off-street parking. The requested variance is from the provision of §63.304 which requires off-street parking not located on the same zoning lot as the principal use to be located within 300 feet of the building it is intended to serve. The 670 Juno property is located approximately 450 feet from the building at 995 W. 7<sup>th</sup> Street, measured from the corner of the building to the northeastern edge of the property at 670 Juno, representing a variance of 150 feet. An additional variance request first considered by the Zoning Committee on April 1, 2010, was from §63.314(a), which requires a landscaped yard of at least 7 feet wide along a public street or sidewalk; this variance is no longer necessary as a 7-foot setback along Osceola Avenue has been shown on a concept plan submitted by the applicant on April 7<sup>th</sup>. Eleven off-street parking spaces are shown on the revised concept plan. A Site Plan Review is also required for this parking lot, but has not yet been approved.
4. Section 61.601 sets out the required findings for a variance of the Zoning Code:
  - (a) *The property in question cannot be put to a reasonable use under the strict provision of the code.* This finding is met. A condition of approval of a previous BZA decision includes that the business find sixteen additional parking spaces in the next year (by March 2011) through the development of an off-street parking facility and/or arrangement of shared parking agreements with adjacent uses. While the applicants have secured verbal agreements to allow their customers to use the parking associated with the adjacent sandwich shop after 8 PM (8-9 spaces), as well as the bank parking lot (10 spaces), the owners of these businesses have not wanted to formalize the arrangements with a shared parking agreement (lease). The applicants have also talked with St. Francis Church to develop a potential shared parking agreement, and are talking with the medical clinic as well. The lot at 670 Juno Ave could be shared as well, providing additional daytime parking for the medical clinic. Given these considerations, the lot at 670 Juno Avenue is the only additional off-street parking that would be formalized for the bar/restaurant use, and a strict application of the code (denying any parking at the site because the lot is over 300 feet from the restaurant) would be unreasonable. In addition, the lot itself is small and oddly-shaped (a triangle bordered by two public streets and a railroad right-of-way), which makes surface parking a reasonable use.
  - (b) *The plight of the landowner is due to circumstances unique to his property, and these circumstances were not created by the landowner.* This finding is met. The properties at 995 W. 7<sup>th</sup> Street and 985 W. 7<sup>th</sup> Street were built in 1906 and 1896, respectively, both long before the City first had parking requirements for commercial uses (which first began in 1975). These irregularly-shaped parcels have limited area available for parking.
  - (c) *The proposed variance is in keeping with the spirit and intent of the code, and is consistent with the health, safety, comfort, morals and welfare of the inhabitants of the City of Saint Paul.* This finding is met. The existing bar/restaurant business at 995 W. 7<sup>th</sup> Street has an existing off-street parking lot to the rear of the property that has access on Osceola, and the building expansion into 985 W. 7<sup>th</sup> Street will include the improvement and formalization of an additional rear surface parking area that accesses James Street. These existing parking areas to the rear of the Shamrock's property directly abut two residential properties, and are directly across the street from several additional residential properties. This compares with 670 Juno Avenue, which does not directly abut any residential property and

is across the street from only two houses; the noise impacts associated with 670 Juno will be less than those associated with the rear parking of the bar/restaurant, and more in keeping with the spirit and intent of the code.

- (d) *The proposed variance will not impair an adequate supply of light and air to adjacent property, nor will it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area.* This finding is met. The proposed parking lot will be designed to be small (between 8-12 parking spaces) and unobtrusive to the adjacent properties. In addition, the proposed parking lot will help alleviate parking pressures associated with a successful business located in the heart of a key West 7<sup>th</sup> Street commercial node (where existing compact commercial/mixed use buildings – part of the essential character of the area - should be maintained in lieu of their removal for additional surface parking lots). The small parking area is located close to a key Mixed Use Corridor (as designated in the Comprehensive Plan) and will help support the existing character of W. 7<sup>th</sup> Street and not unreasonably diminish property values of the adjacent medical office building across Juno Ave. or residential property across Osceola Ave. The variance will also not impair the supply of light and air to adjacent property.
- (e) *The variance, if granted, would not permit any use that is not permitted under the provisions of the code for the property in the district where the affected land is located, nor would it alter or change the zoning district classification of the property.* This finding is met. This variance, which allows for a slightly longer walking distance from a business to its secondary off-street parking lot, will not permit any other use not already allowed in the existing commercial zoning of this property, provided the City Council approves rezoning it to B2.
- (f) *The request for variance is not based primarily on a desire to increase the value or income potential of the parcel of land.* This finding is met. The variance is driven primarily by the requirement for additional off-street parking triggered by the expansion of the business as well as by a condition of approval of a previous BZA decision.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the variance of the 300-foot maximum distance requirement between a building and a noncontiguous off-street parking lot (450 feet proposed) subject to the following additional conditions:
1. The City Council shall approve the rezoning of 670 Juno Avenue to B2.
  2. Any shared parking agreements to provide additional off-street parking to comply with the previous BZA decision (Z.F. #10-011-174) shall be submitted and approved by City staff in accordance with §63.206. Rules for computing required parking.
  3. The site plan is approved by City staff, including appropriate landscaping and screening within the seven foot yard along Osceola Avenue, compliance with minimum layout dimensions for parking spaces and maneuvering lanes as per §63.305, compliance with standards for handicapped accessible parking spaces as per §63.307, pedestrian-scale lighting per City lighting standards on installations that are nine to twelve feet in height and have a limited, downcast glow, and visible signage on the property that indicates the parking is for the bar/restaurant use and any other uses with which the lot is shared in accordance with §63.206.



APPLICATION FOR ZONING VARIANCE  
Department of Safety and Inspections  
375 Jackson Street  
Suite 220  
Saint Paul, MN 55101-1806  
General: 651-266-9008  
Fax: (651) 266-9099

- COPY -

**Zoning office use only**

File Number

Fee: \$

Tentative Hearing Date

Section(s)

City agent

**APPLICANT**

Name Mike Runyon & Ted Casper Company Meefy Beat, Inc.  
Address 995 W. 7th Street  
City St. Paul St. MN Zip 55102 Daytime Phone 651-228-9925  
Property Interest of Applicant (owner, contract purchaser, etc) Purchasers  
Name of Owner (if different) Patrick Donohue Phone 651-224-4050

**PROPERTY  
INFORMATION**

Address / Location PID 112823410192  
Legal Description See Attached Site Plan and Legal Description  
(attach additional sheet if necessary)  
Lot Size 6,273 sf Present Zoning TN2 Present Use Vacant Lot  
Proposed Use Parking

**Variance[s] requested:** This request is for a variance from parking requirements including total number of on-site parking stalls, setback from property line, and landscaping.

**Supporting Information:** Supply the necessary information that is applicable to your variance request, provide details regarding the project, and explain why a variance is needed. Duplex/triplex conversions may require a pro forma to be submitted. Attach additional sheets if necessary.

Variance required for distance from primary site to off-site parking. ~~Variance required for setback off Osceola to four feet due to unusual configuration of site.~~

See attached sheets for supporting information

Attachments as required:



Site Plan



Attachments



Pro Forma

Applicant's Signature

Thomas E. Casper

Date

3-4-10

**CITY OF SAINT PAUL**  
**BOARD OF ZONING APPEALS RESOLUTION**  
**ZONING FILE NUMBER: 10-011174**  
**DATE: March 8, 2010**

**Deadline for Action: 03-02-10**

WHEREAS, Mike Runyon & Ted Casper have applied for a variance from the strict application of the provisions of Section 63.296 & 63.301 of the Saint Paul Legislative Code pertaining to several variances in order to enlarge Shamrocks Bar and Restaurant and establish a new parking lot. 1) The proposed expansion requires 32 additional off-street parking spaces; 2) A 4 foot setback is required from the west property line of the parking lot; 3) a minimum area of 10% landscaping is required for any new off-street parking area; in the B2 zoning district at 995 7th Street West. PIN: 112823140179; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on March 8, 2010 pursuant to said application in accordance with the requirements of Section 64.203 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

1. *The property in question cannot be put to a reasonable use under the strict provisions of the code.*

The applicants are proposing to expand Shamrock Restaurant at 995 West 7<sup>th</sup> Street into the adjacent commercial building at 985 West 7<sup>th</sup> Street that was last occupied by a hair salon and office space on the first floor and 3 residential units on the second. The residential units will remain but the first floor will be converted to restaurant use. This change in use requires 21 additional parking spaces. In addition to the parking required for the change of use, the zoning code, under Sec. 63.206(c)(2), requires that 25% of the parking shortfall for the existing restaurant must also be provided. The existing bar/restaurant has a parking shortfall of 44 spaces and 25% of the shortfall is 11 spaces. The shortfall plus the parking required for the change of use results in a total parking deficit for the expansion of 32 spaces. The project will also include the development of the lot behind 985 West 7<sup>th</sup> Street into a parking lot with access from James Avenue. This lot has been used informally for parking in the past but has never been developed to code. The area available for parking is about 40 by 82 and in order to make it practical for parking, the applicants are requesting a setback variance and a variance of the landscaping requirements. Expanding the restaurant into the adjacent commercial space and developing the parking area behind the building are reasonable and permitted uses that cannot be accomplished under the strict provisions of the code.

2. *The plight of the land owner is due to circumstances unique to this property, and these circumstances were not created by the land owner.*

File #10-011174  
Resolution

The building at 995 West 7<sup>th</sup> Street was constructed in 1906 and the building at 985 West 7<sup>th</sup> Street was built in 1896, both long before the City first had parking requirements for commercial uses in 1975. These irregular shaped parcels have limited area available for parking. The circumstances make it difficult to put the buildings to a reasonable use under the current code and were not created by the current property owners.

3. *The proposed variance is in keeping with the spirit and intent of the code, and is consistent with the health, safety, comfort, morals and welfare of the inhabitants of the City of St. Paul.*

Shamrock's has proven to be a successful business attracting many customers to the neighborhood. Along with this success comes a corresponding increase in parking demand in the area. The applicants are proposing to address these parking concerns through informal shared parking agreements with the Cherokee Bank located across Osceola Avenue and the Subway Restaurant located next door. The applicants state that both have said their lots are available for after-hour parking by Shamrock customers but neither wants to enter into a formal parking agreement at this time. They also state that they have been told that their employees can use the fire station parking lot across West 7<sup>th</sup> Street after 5 PM but staff has not been able to confirm that. The applicants should continue to seek a formal shared parking agreement or otherwise provide at least 16 of the required 32 spaces. Finally by redeveloping the parking area behind 985 West 7<sup>th</sup> Street and adding some bicycle and motorcycle parking they hope to mitigate any increase in parking demand in the neighborhood due to the expansion of the business.

4. *The proposed variance will not impair an adequate supply of light and air to adjacent property, nor will it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area.*

The requested parking and site variances will not significantly affect the supply of light or air to adjacent properties.

The applicant has submitted three proposed site plans for the parking lot. Staff recommends the third plan which substitutes landscaping for the parking space closest to the street. Although this plan would eliminate one parking space it would provide a setback from the street and a visual break from the paved lot. It would also improve pedestrian safety by preventing cars from backing over the sidewalk. The two parcels have separate tax identification numbers and will need to be combined as a single parcel with one identification number in order to ensure that the parking remains with the restaurant. With the above stated conditions, the proposed variances would not change the character of the neighborhood or have an adverse impact on surrounding properties.

File #10-011174  
Resolution

5. *The variance, if granted, would not permit any use that is not permitted under the provisions of the code for the property in the district where the affected land is located, nor would it alter or change the zoning district classification of the property.*

The proposed bar/restaurant and associated parking is a permitted use in this district. The requested variances would not change or alter the zoning classification of the property.

6. *The request for variance is not based primarily on a desire to increase the value or income potential of the parcel of land.*

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the provisions of Section 63.206 & 63.301 are hereby waived to allow: 1) A variance of 32 spaces; 2) A west property line setback of 0 (zero); 3) A minimum area of landscaping of 5.7%; *subject to the following conditions: 1) That the applicants obtain a shared parking agreement or other wise provide an additional 16 parking spaces within the next year and 2) That the parcels are combined under a single tax identification.* In order to enlarge Shamrocks Bar and Restaurant and establish a new parking lot on property located at 995 7<sup>th</sup> Street West; and legally described as A. H. Koehler's Re-Arrangement "A" Lots 3 4 And Lot 5; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

**MOVED BY:**  
**SECONDED BY:**  
**IN FAVOR:**  
**AGAINST:**

**MAILED:** March 9, 2010

**TIME LIMIT:**

No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the zoning or planning administrator grants an extension not to exceed one (1) year.

4-7-2010

CLINIC PARKING RAMP

JUNO AVENUE

EXISTING  
CATCH BASINS

LINDEN  
SHADE TREE  
5 TOTAL

LIGHTING PER  
CITY STANDARDS

ENTRY  
24'

33'

BLACK CHOKEBERRY  
HEDGE

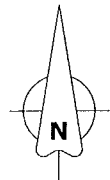
OSCEOLA AVENUE

42" HIGH  
ORNAMENTAL FENCE

136.58

1.54

RAILROAD RIGHT OF WAY



NOTE: Site will sheet drain from south to north and into existing catch basins on Juno Ave.

**Fig. 1.** View of 670 Juno Ave,  
looking north



**Fig. 2.** View of 670 Juno Ave, looking  
northwest towards Osceola Ave



Fig. 3. View east from 670 Juno Avenue

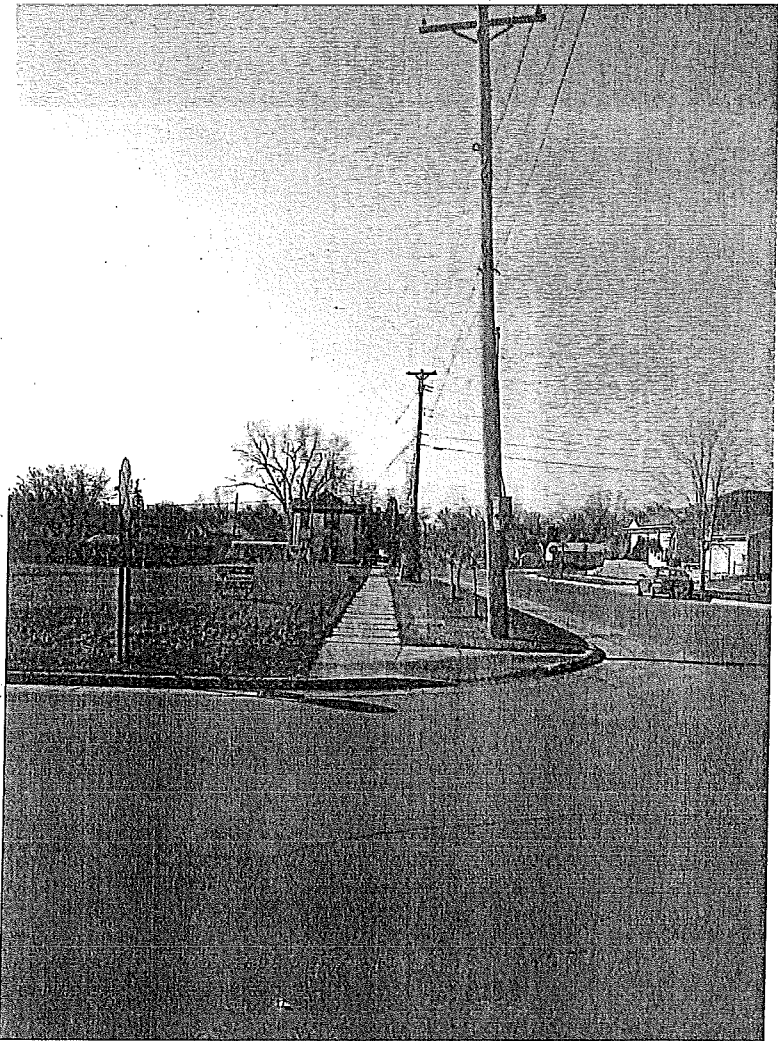
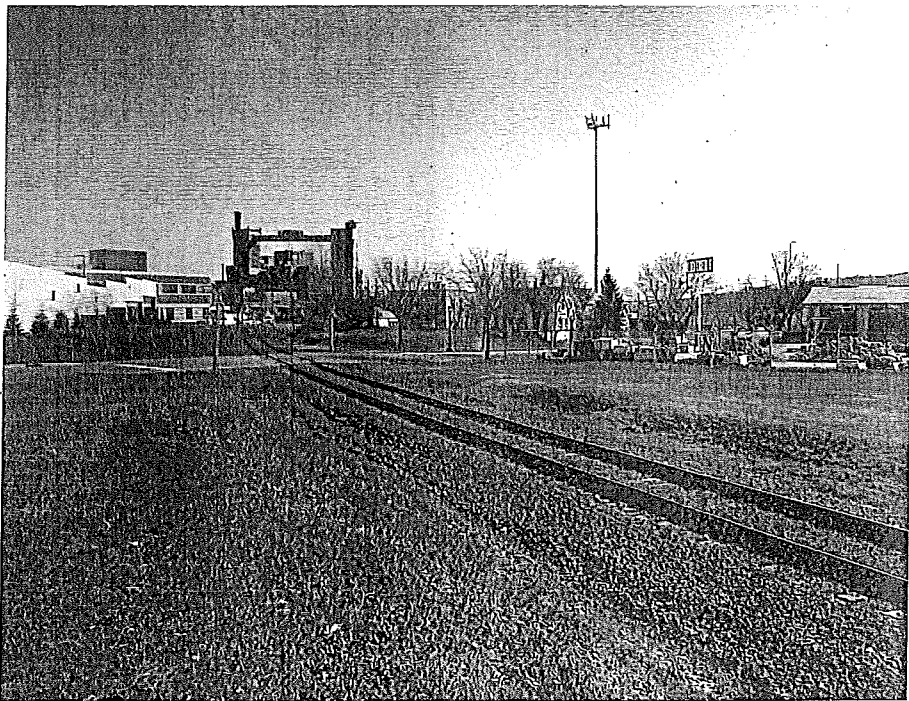
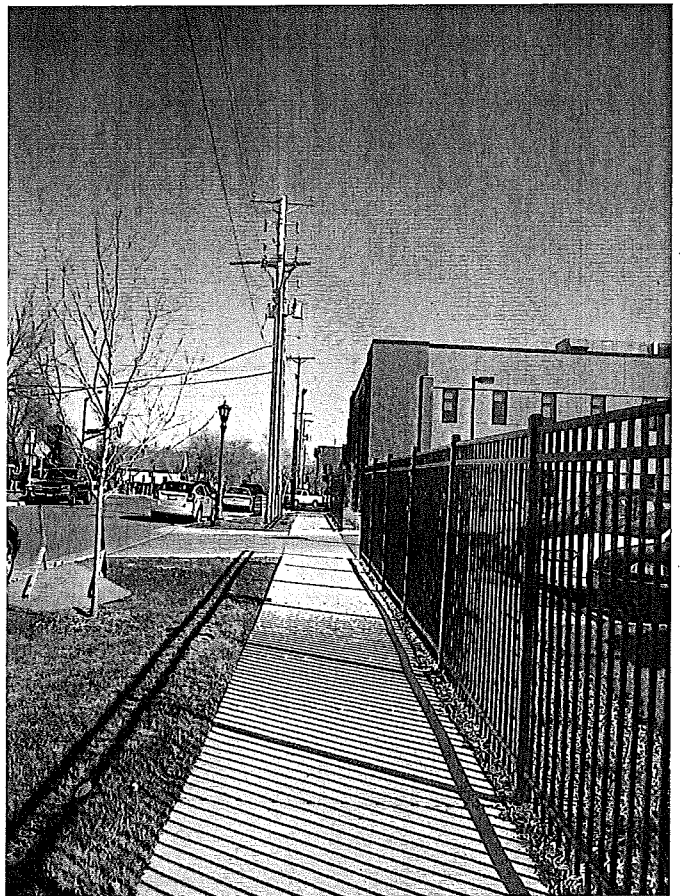


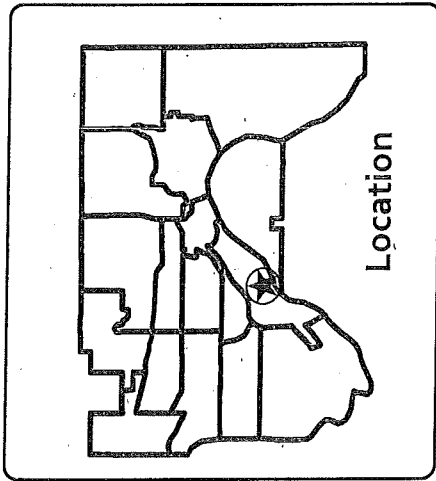
Fig. 4. South view of 670 Juno Ave along Osceola sidewalk

**Fig. 5.** North view along Osceola sidewalk, medical clinic/office building on the eastern side

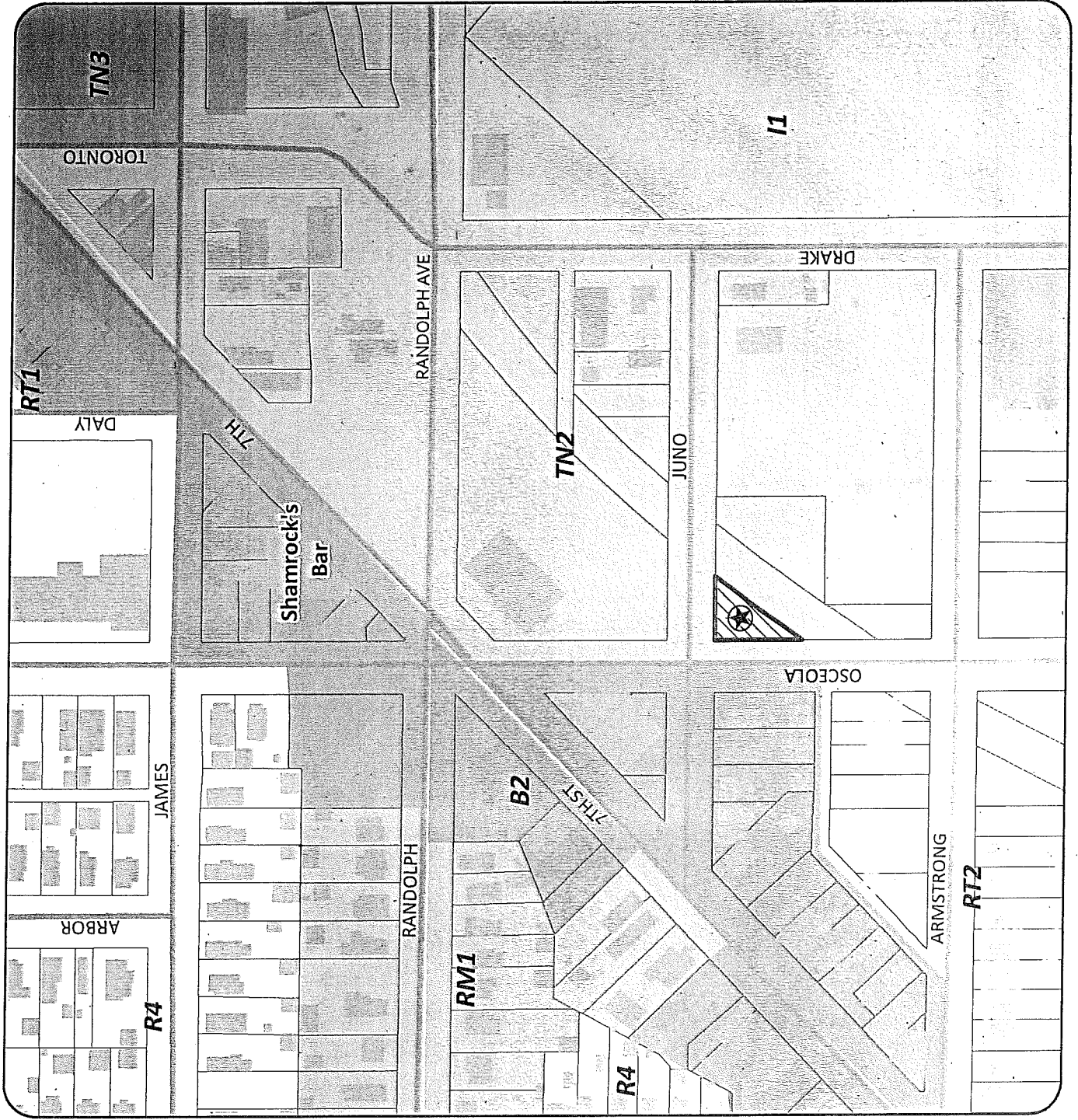


**Fig. 6.** Existing bar/restaurant at 995 W. 7<sup>th</sup> Street, with adjacent building expansion site (formerly 985 W. 7<sup>th</sup>)

# Existing Zoning

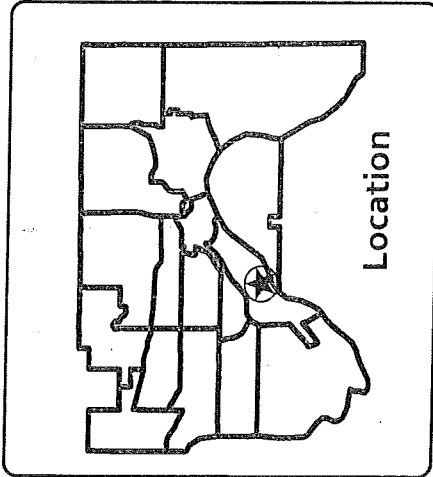


670 Juno



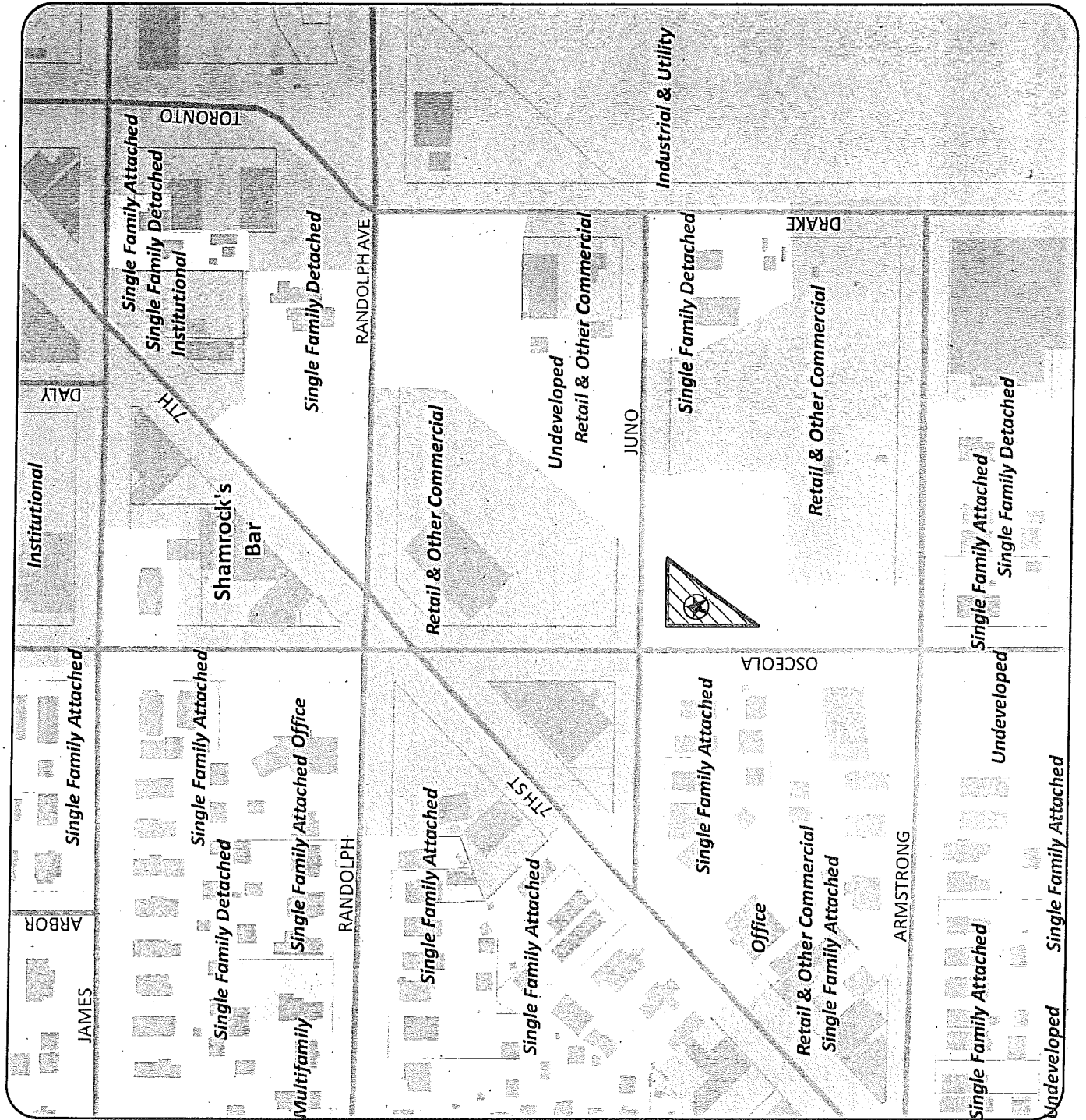


# Existing Land Use



Location

670 Juno



## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Clear Wireless LLC (Eastview Playground) **FILE #** 10-116-425
  2. **APPLICANT:** Clear Wireless LLC **HEARING DATE:** April 1, 2010
  3. **TYPE OF APPLICATION:** Conditional Use Permit
  4. **LOCATION:** 1675 5th St E, Area bounded by Kennard, 5th, Flandrau, Margaret St. Alley
  5. **PIN & LEGAL DESCRIPTION:** 342922110163, G V Bacons Addition Vac Alley In Blk 10 And Vac 6th St Bet And Lots 16 Thru 30 Blk 7 And Lots 1 Thru Lot 30 Blk 10
  6. **PLANNING DISTRICT:** 1 **PRESENT ZONING:** R4
  7. **ZONING CODE REFERENCE:** §65.310; §61.501
  8. **STAFF REPORT DATE:** March 22, 2010 **BY:** Sarah Zorn
  9. **DATE RECEIVED:** March 3, 2010 **60-DAY DEADLINE FOR ACTION:** May 2, 2010
- 

- A. **PURPOSE:** Conditional Use Permit for a wireless communications antenna on a 100 ft monopole
- B. **PARCEL SIZE:** 264,875 sq. ft.; the area of disturbance is approximately 100 sq. ft.
- C. **EXISTING LAND USE:** G-Parks/Rec. Facility

D. **SURROUNDING LAND USE:**

North: Single family residential (R4)

East: Single family residential (R4)

South: Single family residential (R4)

West: Single and two family residential (R4)

- E. **ZONING CODE CITATION:** §65.310 requires a conditional use permit for cellular telephone antennas on a free-standing pole in residential districts, and provides specific standards and conditions for cellular telephone antennas. §61.501 lists general conditions that must be met by all conditional uses; §61.502 authorizes the planning commission to modify any or all special conditions after making specified findings.
- F. **HISTORY/DISCUSSION:** In November of 2009 an application for a wireless communication antenna was returned to the applicant, who was directed to the Zoning Administrator for a Statement of Clarification.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 1 Council is in support of this application.
- H. **FINDINGS:**
  1. The Zoning Administrator issued a Statement of Clarification in December of 2009 determining that broadband data service is substantially similar in character to traditional cellular telephone service.
  2. §65.310 defines 'cellular telephone antenna', requires a conditional use permit for cellular telephone antennas on a free-standing pole in residential districts, and lists the following standards and conditions with which they must comply:
    - (a) *In residential districts, a conditional use permit is required for cellular telephone antennas on a residential structure less than sixty (60) feet high. In residential, traditional neighborhood and business districts, a conditional use permit is required for cellular telephone antennas on a freestanding pole, except for existing utility poles. In residential and traditional neighborhood districts, existing utility poles to which cellular telephone antennas are attached shall be at least sixty (60) feet high. This condition is met. An application for a conditional use permit has been made for a cellular telephone/wireless communications antenna on a 100 foot high freestanding monopole.*
    - (b) *In residential, traditional neighborhood, and OS--B3 and B5 business districts, the antennas shall not extend more than fifteen (15) feet above the structural height of the structure to which they are attached...* The proposed antenna is not being attached to an existing structure; therefore this condition does not apply to this application.

(c) *For antennas proposed to be located on a residential structure less than sixty (60) feet high in residential districts, or on a new freestanding pole in residential, traditional neighborhood, and business districts, the applicant shall demonstrate that the proposed antennas cannot be accommodated on an existing freestanding pole, an existing residential structure at least sixty (60) feet high, an existing institutional use structure, or a business building within one-half ( 1/2) mile radius of the proposed antennas due to one (1) or more of the following reasons:*

*(1) The planned equipment would exceed the structural capacity of the existing pole or structure.*

*(2) The planned equipment would cause interference with other existing or planned equipment on the pole or structure.*

*(3) The planned equipment cannot be accommodated at a height necessary to function reasonably.*

*(4) The owner of the existing pole, structure or building is unwilling to co-locate an antenna.*

This condition is met. The applicant has provided a map showing buildings within one half mile of the proposed antenna site, and the reasons the proposed antennas cannot be accommodated on existing structures in the area.

(d) *In residential, traditional neighborhood and business districts, cellular telephone antennas are to be located on a new freestanding pole are subject to the following standards and conditions:*

*(1) The freestanding pole shall not exceed seventy-five (75) feet in height, unless the applicant demonstrates that the surrounding topography, structures, or vegetation renders a seventy-five-foot pole impractical. Freestanding poles may exceed the above height limit by twenty-five (25) feet if the pole is designed to carry two (2) antennas. This condition is met. The February 26, 2010 letter from the applicant attached to the application states that the antenna will be 100 ft. tall and collocatable.*

*(2) Antennas shall not be located in a required front or side yard and shall be set back one (1) times the height of the antenna plus ten (10) feet from the nearest residential structure. This condition is met. The antenna will not be located in a required front or side yard. The proposed location is more than 110 ft. from the nearest residential property.*

*(3) The antennas shall be designed where possible to blend into the surrounding environment through the use of color and camouflaging architectural treatment. Drawings or photographic perspectives showing the pole and antennas shall be provided to the planning commission to determine compliance with this provision. The applicant has provided a photographic perspective that shows what the antenna will look like on the site. The antenna will be designed to carry a light fixture used to illuminate the ballfield as well, which will help it to blend in.*

*(4) In residential and traditional neighborhood districts, the pole shall be on institutional use property at least one (1) acre in area. In business districts, the zoning lot on which the pole is located shall be within contiguous property with OS or less restrictive zoning at least one (1) acre in area. This condition is met. The pole will be located at Eastview Park, which is approximately 4.5 acres in area.*

(e) *In industrial districts, cellular telephone antennas on a freestanding pole shall not exceed one hundred fifty (150) feet in height, shall not be located in a required front or side yard, and shall be set back one (1) times the height of the antenna plus ten (10) feet from the nearest residential structure. This condition does not apply.*

(f) *Antennas located in historic districts shall be subject to review and approval of the heritage preservation commission. This condition does not apply.*

(g) *Freestanding poles shall be a monopole design. This condition is met. The proposed*

freestanding pole is a monopole design.

(h) *Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary, it shall be permitted and regulated as an accessory building, section 63.500, and screened from view by landscaping where appropriate.* This condition can be met. No screening or equipment enclosure is currently proposed. If the applicant works with Parks and Recreation to satisfactorily screen the equipment, this condition can be met.

(i) *Cellular telephone antennas that are no longer used for cellular telephone service shall be removed within one (1) year of nonuse.* This condition is met. The applicant has agreed to abide by this condition.

3. §61.501 lists five standards that all conditional uses must satisfy:

(1) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. The Comprehensive Plan refers to the importance of ensuring investments in local and regional infrastructure supportive of economic development.

(2) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. There is no significant traffic associated with the use; ingress and egress is adequate for routine maintenance.

(3) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The proposed pole will be located on Parks property and will remove and replace an existing light fixture. The use will actually improve the general welfare by expanding wireless communication capabilities in the area.

(4) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The use will not impede the development or improvement of surrounding properties.

(5) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The construction, operation and maintenance of the antenna will conform to all applicable district regulations.

I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the Conditional Use Permit for a wireless communications antenna on a 100 ft monopole at 1675 5<sup>th</sup> Street East, as shown on the attached site plan, subject to the following conditions:

1. A lease agreement is reached between Clear Wire and the City of Saint Paul;
2. The screening and concealment of ground equipment shall be approved by the City of Saint Paul, Department of Parks and Recreation;
3. If the antenna is no longer used for cellular phone/wireless communication service it shall be removed within one year as stated in section 65.310(j);
4. During the effective period of the lease, Clear Wire shall be responsible for removal or relocation of the antenna and monopole at Clear Wire's expense if required by the City of Saint Paul.

## Request for Continuance

Date 1 April 2010

Richard Kramer, Chair  
Zoning Committee  
City of Saint Paul  
1400 City Hall Annex  
Saint Paul, Minnesota 55102

Re: Zoning File # 10-116-425

Dear Mr. Kramer:

I am the applicant or the applicant's duly appointed representative for this zoning file.

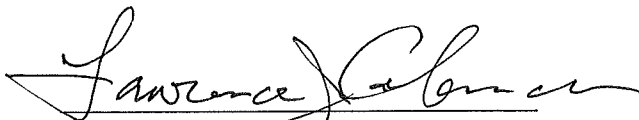
I request a continuance of the public hearing on the application in this zoning file, which is presently scheduled before the Zoning Committee on 4/1/10.

I understand that a continuance of the public hearing before the Zoning Committee means that the decision of the Planning Commission on this application, which is presently scheduled for 4/9/10, will also be continued.

I request that the Zoning Committee continue the public hearing for this zoning file to 4/15/10, I understand that the Planning Commission would then be scheduled to make their decision on 4/23/10.

I am aware of and understand the statutory requirements found in Minn. Statute § 15.99 (1995) requiring the City of Saint Paul to approve or deny this application within sixty days of its submission. I desire to extend the sixty day period for a City decision under Minn. Stat. § 15.99 by 8 days to 5/10/10, to accommodate the continuance I am requesting.

Sincerely,



Signature of Applicant or  
Applicant's duly appointed  
representative.

Lawrence J. Coleman

Printed name of Applicant or  
Applicant's duly appointed  
representative.



**CONDITIONAL USE PERMIT APPLICATION**

Department of Planning and Economic Development

Zoning Section

1400 City Hall Annex

25 West Fourth Street

Saint Paul, MN 55102-1634

(651) 266-6589

Zoning office use only

File #

Fee:

Tentative Hearing Date:

PD=1

4-1-10

# 3429 2211 0163

**APPLICANT**

Name Clear Wireless, LLC MN-MSP0015  
Address 7400 Metro Blvd., Ste. 260  
City Edina St. MN Zip 55439 Daytime Phone (651) 249-3866  
Name of Owner (if different) City of St. Paul  
Contact Person (if different) Lawrence Coleman Phone (651) 249-3866

**PROPERTY  
LOCATION**

Address / Location 1675 - 5th St. E.  
Legal Description PIN: 34.29.22.11.0163  
See attached description. Current Zoning R4  
(attach additional sheet if necessary)

TYPE OF PERMIT: Application is hereby made for a Conditional Use Permit under provisions of  
Chapter 65, Section 65.310, Paragraph (d) of the Zoning Code.

SUPPORTING INFORMATION: Explain how the use will meet all of the applicable standards and conditions. If you are requesting modification of any special conditions or standards for a conditional use, explain why the modification is needed and how it meets the requirements for modification of special conditions in Section 61.502 of the Zoning Code. Attach additional sheets if necessary.

See attached documentation.

CK  
160227  
2-26-10

☒ Required site plan is attached

Applicant's Signature

Lawrence Coleman for  
Clear Wireless, LLC

Date

2/26/10

City Agent

pdd  
2-26-10



FMHC Corporation  
1535 N. Elston Avenue  
Chicago, IL 60622

www.fmhc.com  
phone 773 395 8800  
fax 773 395 3464

February 26, 2010

City of St. Paul  
PED - Zoning Section  
1400 City Hall Annex  
25 W. 4<sup>th</sup> St.  
St. Paul, MN 55102-1634

Re: Conditional Use Permit Application  
Clearwire Site No.: MN-MSP0015  
Address: 1675 - 5<sup>th</sup> Street East

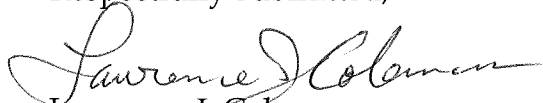
Dear PED:

Clear Wireless, LLC is a new wireless service provider to the Twin Cities and is in the process of developing its network. Attached please find a Special Condition Use Permit application along with a check for the application fee in the amount of \$750.00. Enclosed with the application is the legal description, supporting information, site plans, map with legend of properties within ½ mile radius, site simulation and RF non-interference letter.

This proposal is to replace an existing light standard at the Eastview Park baseball field with a 100 ft. monopole. The monopole will be collocatable. The ground equipment will be located on an H-frame adjacent to the recreational center building and the building will provide screening. Review of this project by the District 1 Council has taken place and they are in support of the project. Care has been taken in the location of this site to have the least impact on the neighborhood as possible.

If you have any questions or are in need of additional information, please do not hesitate to contact me.

Respectfully Submitted,

  
Lawrence J. Coleman  
FMHC Corporation  
(651) 249-3866

Enclosures

LJC/wo

## **SUPPORTING INFORMATION**

### **Code Requirements:**

*The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.*

This use will be the location of antennae upon a 100 ft. monopole with the accompanying equipment on the ground besides the monopole as a replacement for the existing light standard. This monopole will be collocatable. Screening is provided by the existing recreational center building. This area is currently used as a park adjacent to a school and the light standard is for the baseball field.

*The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.*

After initial construction, only routine maintenance of the site will be required and there will be no regular traffic associated with this use. Parking is available on site.

*The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.*

The current use of the proposed installation is as a light standard for a baseball field in a City park. The use of the light standard will remain but the pole will be taller in order to accommodate the wireless antennae and dishes. Installation of the antennae will actually improve the public health, safety and welfare by improving wireless service in the area and providing E911 emergency communications capability.

*The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

This use will have no impact upon the development and improvement of the surrounding property other than to provide the properties with higher quality wireless communication services.

*The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.*

It is the policy of Clearwire to comply with all laws and regulations. In addition to the district regulations, Clearwire will also comply with state and federal laws and regulations regarding wireless communication services. The proposed use complies with all the special conditions specified in the zoning code. Care was taken in the placement

of this monopole in an area of the property furthest from the surrounding residential uses and in a location with existing screening in accordance with the spirit and purpose of the zoning code.

**US TITLE SOLUTIONS**

**FILE NO. 31888-MN0912-5010    REFERENCE NO. MN-MSP0015**

---

**REPORT OF TITLE**

**1    DATE OF THIS REPORT**

**2    THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS REPORT IS:**

Fee Simple

**3    TITLE TO SAID ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS REPORT IS AT THE EFFECTIVE DATE HEREOF VESTED IN:**

City of Saint Paul, State of Minnesota

**SOURCE OF TITLE:**

Vesting made by Document Numbers 923358 and 941301 .

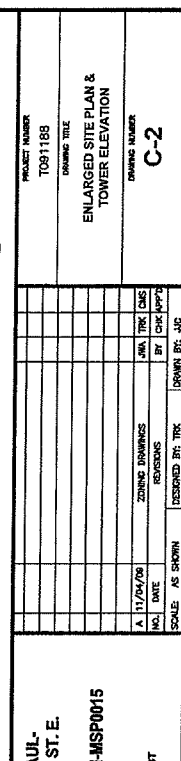
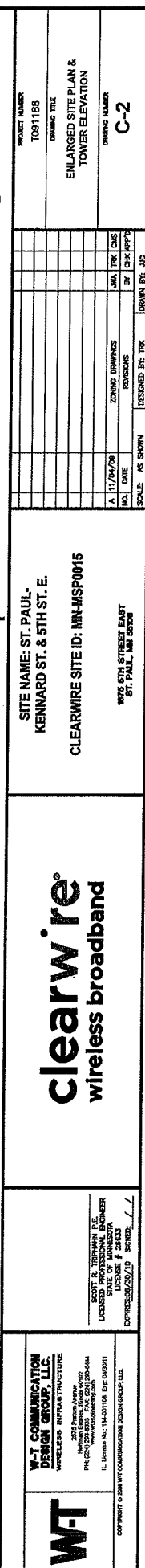
**4    THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:**

**TAX LEGAL**

G. V. Bacon's Addition, Vac Alley In Blk 10 And Vac 6th St Bet And Lots 16  
Thru 30 Blk 7 And Lots 1 Thru Lot 30 Blk 10

[illegible]







Google maps

Address 1675 5th St E  
St Paul, MN 55106Notes MN-MSP0015  
Eastview Park Light Standard

## **Map Legend**

### **Eastview Park Light Standard**

- 1** Harding High School Light Standards – St. Paul Public Schools does not offer acceptable lease terms so site cannot be pursued.
- 2** Cemstone Elevator – property is for sale so lease was not possible.
- 3** Minnehaha Apartments – 1755 Minnehaha Ave., too low for site.
- 4** Little Oven, Cherry Pit, Big Steer – too low.
- 5** Church of Christ – too low.
- 6** St. Pascal Curch & School – the belltower cannot be used since it is made of metal. The school and church buildings are too low for a site.
- 7** Monopole – 1727 Old Hudson Rd., there are currently 3 carriers already on the monopole and available space is too low to function.
- 8** Super 8 Hotel – building is too low to function.
- 9** Grace Lutheran Church – 1730 Old Hudson Rd., the belltower has a large cross and it is too low to go beneath the cross. The building is also too low.
- 10** La Quinta Inn – Although the building is 6 stories, it is in a low lying area and is too low to function properly. The hotel is also in receivership so lease negotiations are not possible.

MN-MSF0045

1675 5th St. East

Saint Paul, MN

Facing West

clearwire  
wireless broadband

EXISTING

**WT**  
W-T COMMUNICATION  
DESIGN GROUP, LLC  
1000 E. 10TH AVE. SUITE 1000  
MINNEAPOLIS, MN 55414

RIGHT © 2009 W-T COMMUNICATION DESIGN GROUP, LLC.

MN-MSP0015

1675 5th St East

Saint Paul, MN

Facing West

clearwire  
wireless broadband

PROPOSED

WT

W-T COMMUNICATION  
DESIGN GROUP, LLC

WE'VE GOT YOU COVERED

Disclaimer: This photo simulation is an artist's depiction of a future installation. The actual construction may vary slightly in size, layout, color and texture from this simulation.

W-T COMMUNICATION DESIGN GROUP, LLC

© 2009 W-T COMMUNICATION DESIGN GROUP, LLC

**MN-MSP0015**

1675 5th St. East  
Saint Paul, MN

**Facing North**



**clearwire.**  
wireless broadband

**EXISTING**

**W-T**

W-T COMMUNICATION  
DESIGN GROUP, LLC.  
WIRELESS INFRASTRUCTURE

COPYRIGHT © 2009 W-T COMMUNICATION DESIGN GROUP, LLC

This photo is an artist's depiction of a proposed installation. The actual conditions may vary from this simulation.



**MN-MSP0015**

1675 5th St. East  
Saint Paul, MN

**Facing North**



**clearwire.**  
wireless broadband

**PROPOSED**

**W-T**

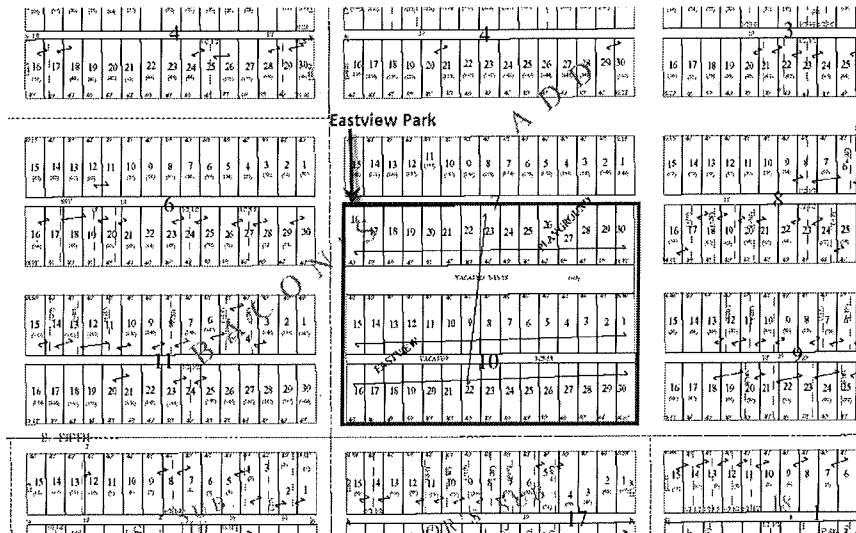
W-T COMMUNICATION  
DESIGN GROUP, LLC  
WIRELESS INFRASTRUCTURE

COPYRIGHT © 2009 W-T COMMUNICATION DESIGN GROUP, LLC

Disclaimer: This photograph is an artist's depiction of a proposed wireless broadband tower. The actual construction may vary from this simulation.

## LOCATION AND DESCRIPTION OF PROPERTY

The subject of the Conditional Use Permit application is the Eastview Park and Recreation Center property, located 1675 East 5<sup>th</sup> Street, Saint Paul, Minnesota 55106. The Eastview Recreation Center property is legally described as Vacated Alley in Block 10 and Vacated 6<sup>th</sup> Street - Lots sixteen (16) thru thirty (30) in Block seven (7) and lots one (1) to thirty (30) in Block two (2), G.s. Bacon's Addition.



The Eastview Recreation Center property is zoned an R4 Residential District and it meets the institutional use requirement.





4400 Carillon Point  
Kirkland, WA 98033

PHONE:  
425 216 7600

FAX:  
425 216 7900

ONLINE:  
[www.clearwire.com](http://www.clearwire.com)

November 9<sup>th</sup>, 2009

RE: Clearwire FCC Compliance and Interference

To Whom It May Concern:

Clearwire provides wireless broadband services that use a network of fixed base stations. Clearwire operates between 2496 MHz and 2690 MHz spectrum using 10 MHz channels.

Clearwire will comply with all FAA and FCC regulations and applicable standards from all other federal, state, and local laws and regulations. As the applicant for this project, Clearwire will ensure that such installation, repair, operation, upgrading, maintenance and removal of antennas by the wireless communication provider shall be lawful and in compliance with all applicable laws, orders, ordinances and regulations of federal, state and local laws and regulations.

Antenna usage at our wireless installations will not interfere with other adjacent or neighboring transmission or reception of communications signals including emergency services.

Sincerely,

*Julio Hernandez*

Julio Hernandez  
Radio Frequency Engineer  
Clearwire Minneapolis-Saint Paul Market  
(240) 277-4689



#10-116-425  
1675 5th St E.

**Sarah Zorn - 1625 E. 5th St. - Clear Wire**

---

**From:**

**To:**

**Date:** 3/24/2010 1:28 PM

**Subject:** 1625 E. 5th St. - Clear Wire

---

Dear Sarah,

On November 23, 2009 the District 1 Community Council held a public meeting regarding Clear Wire's request to place a wireless tower on the grounds of Eastview Park. There were 17 people in attendance and the questions centered on the type of service and whether the park would directly benefit from the income the city receives. As a result of the meeting, the board supported the proposal without objection.

Thank you.

Betsy Leach

Exec. Director/Community Organizer

District 1 Community Council

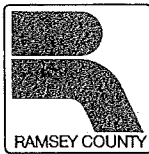
**NEW ADDRESS & PHONE**

2105 1/2 Old Hudson Rd.

Saint Paul, MN 55119

[district1council@aol.com](mailto:district1council@aol.com); [www.district1council.org](http://www.district1council.org)

651-578-7600 (v); 651-578-7404 (fax)



## Property Records and Revenue

Taxpayer Services

90 West Plato Blvd  
P.O. Box 64097  
St. Paul, MN 55164-0097

Fax: 651-266-2022

March 31, 2010

City of St. Paul  
Planning and Economic Development  
1400 City Hall Annex  
25 West Fourth St.  
St. Paul, mn 55102-1634

Re: Public Hearing Notice, File # 10-116-425, Conditional Use Permit for a wireless communications antenna on a 100 ft monopole

Dear St. Paul Planning Commission Zoning Committee:

The Ramsey County Tax Forfeited Land section received a public hearing notice, File # 10-116-425, for a conditional use permit for a wireless communications antenna on a 100 ft monopole for a property that is in part tax forfeited property, currently on a conditional use deed to the City of St. Paul. After a review of the use deed and stated public use, we have been advised by our attorney as follows:

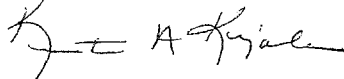
Tax-forfeited properties can be conveyed by the State of Minnesota by a "use deed" to a governmental subdivision for "an authorized public use" pursuant to the following statute:

**282.01, Subd. 1a. Conveyance; generally.** Tax-forfeited lands may be sold by the county board to an organized or incorporated governmental subdivision of the state for any public purpose for which the subdivision is authorized to acquire property or may be released from the trust in favor of the taxing districts on application of a state agency for an authorized use at not less than their value as determined by the county board. The commissioner of revenue may convey by deed in the name of the state a tract of tax-forfeited land held in trust in favor of the taxing districts to a governmental subdivision for an authorized public use, if an application is submitted to the commissioner which includes a statement of facts as to the use to be made of the tract and the need therefor and the recommendation of the county board. (Emphasis added.)

The property at 1675 5<sup>th</sup> Street East was conveyed to the City of Saint Paul for use as a public playground in 1941. The city does not own the property unconditionally. Its ownership is conditioned upon continued use for the specific use authorized by the use deed. Using the property for a wireless communication antenna was not authorized by that use deed, and does not fall within the authorized recreational use as a public playground.

Therefore the conditional use permit would be prohibited on the portion of the property that was conveyed by a use deed. Copies of the use deeds are attached. If you wish to discuss this matter further, you may reach me at (651) 266-2081.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristine A. Kujala". The signature is fluid and cursive, with the first name "Kristine" and last name "Kujala" being clearly legible, and "A." as a middle initial.

Kristine A. Kujala, Supervisor  
Tax Forfeited Land  
Ramsey County

Enclosures

800 1181 322

Department of Taxation - Form 55

0223037

1076058

See Taxes for the year 1941 and a list of  
described lands. Said lands owned  
by State for reference for non-  
payment of taxes from 1925, Ch. 502

JUL 30 1945

ELSA M. CRIST, Treasurer  
COUNTY OF RAMSEY, Minnesota

COUNTY BOARD

File No.

All Assessments on the within  
property have been cancelled  
pursuant to laws 1935 Chapter  
333 amended 16-19-44  
DEPARTMENT OF FINANCE

STATE OF MINNESOTA  
DEPARTMENT OF TAXATION

### CONVEYANCE OF FORFEITED LANDS

JOHN S. FINDLAN,  
Commissioner of Finance

(Issued pursuant to Laws of 1941, Chapter 511)  
and acts amendatory thereof

TAXES PAID  
AND TRANSFER ENTERED

AUG 1 - 1945  
EUGENE A. MONICK, Auditor  
COUNTY OF RAMSEY, MINN.

THIS INDENTURE, made this 23rd day of February, 1945, between the  
State of Minnesota, as party of the first part, and the City of Saint Paul, a govern-  
mental subdivision, as party of the second part, WITNESSETH:

WHEREAS, the land hereinafter described was duly forfeited to the State of Minnesota for the  
nonpayment of taxes, and,

WHEREAS, pursuant to Laws 1941, Chapter 511, as amended, the party of the second part has  
applied to the Commissioner of Taxation for the conveyance of lands hereinafter described to be used  
by it exclusively for public playground purposes, and,

WHEREAS, the Board of County Commissioners of the County of Ramsey,  
State of Minnesota, has recommended to the Commissioner of Taxation by resolution adopted on  
the 22nd day of January, 1945, that such conveyance be made,

NOW, THEREFORE, The State of Minnesota, pursuant to said laws and in consideration of the  
premises, does hereby grant, bargain, sell and convey unto the party of the second part, forever, all  
the tracts or parcels of land lying and being in the County of Ramsey, State of  
Minnesota, described as follows, to-wit:

The East half of the North East quarter (34 of NE 1/4) of Section twenty-eight (28),  
Township twenty-nine (29), Range twenty-two (22) (except the North 1921.92 feet and  
except part lying Easterly of Westerly line of the Right-of-Way of the Northern Pa-  
cific Railway and except the part taken for street).

Lots sixteen to twenty-four (16 to 24) inclusive, and Lots twenty-eight to thirty  
(28 to 30) inclusive, Block seven (7), C. T. Bacon's Addition.

Lots four (4), five (5), six (6), eight (8) and nine (9), Block twenty-four (24),  
Dinnell and Spencer's Addition to Brooklyn.

That part lying East of Jackson Street of Lot five (5), Block twenty-one (21),  
Sharon and Sheburne's Addition to Saint Paul.

Lots one to twenty-two (1 to 22) inclusive, and Lots twenty-eight (28), twenty-  
nine (29) and thirty (30), Block two (2), Gilbert's Addition.

Lots one to eight (1 to 8) inclusive, Lots ten (10), eleven (11) and twelve (12),  
Lots fourteen to twenty-five (14 to 25) inclusive, and Lots twenty-seven (27) and  
twenty-eight (28), all in Block one (1), Fairview South Addition.

Lots nine to fourteen (9 to 14) inclusive, and Lots seventeen to twenty-two (17  
to 22) inclusive, Block twelve (12), Mackubin and Marshall's Addition.

1000751

THIS INDENTURE, made this 9th day of October, 1941, between the State of Minnesota, as party of the first part, and the City of Saint Paul, a municipal corporation, as party of the second part, WITNESSETH:

WHEREAS, the land hereinafter described was duly forfeited to the State of Minnesota for the nonpayment of taxes, and

WHEREAS, pursuant to Laws 1941, Chapter 511, the party of the second part has applied to the Commissioner of taxation for the conveyance of lands hereinafter described to be used by it exclusively for public park, parkway and playground purposes, and

WHEREAS, the Board of County Commissioners of the County of Ramsey, State of Minnesota, has recommended to the Commissioner of Taxation by resolution adopted September 22, 1941, that such conveyance be made,

NOW, THEREFORE, the State of Minnesota, pursuant to said laws and in consideration of the premises, does hereby grant, bargain, sell and convey unto the party of the second part, forever, all the tracts or parcels of land lying and being in the County of Ramsey and State of Minnesota, described as follows, to-wit:

Part N'y of Wheelock Parkway of Block ten (10), and part S'y of Wheelock Block ten (10), B. Schnitzius' Addition.

Lots one (1) to twenty five (25), inclusive, Block three (3), Gilbert's Addition.

(Except the E. 35 feet) that part S. of Rondo St. of Lot six (6), and (Except the N. 134.64 feet of that part W. of a line 313 feet E. of Lexington Ave. and parallel thereto) all S. of Rondo St. of Lot seven (7) and (Except the N. 134.64 feet of that part lying E. of a line 273 feet E. of Lexington Ave. and parallel thereto) all S. of Rondo St. of Lot eight (8) Buel and Mackubin Out Lots in Town twenty nine (29), Range twenty three (23); also Lots one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11) and (except parkway and except the S. 97.32 feet) Lots twelve (12), thirteen (13) and fourteen (14), Block two (2), C. V. Bacon's Subdivision.

(Except N. P. Railway R/W) the N. 147.59 feet of Lot thirty one (31) and the S. 295.16 feet of Lot thirty one (31), Lake Como Villas.

Lots one (1) to thirteen (13) inclusive, Hillcrest Addition, also (except N. 40 feet), the W. 320 feet of Block five (5) and (except S. 10 feet) Block eight (8), Otto's Addition.

Lots six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14) and fifteen (15), Block fifty-eight (58), Thompson's Subdivision of Block fifty eight (58), Lyman Dayton's Addition.

Lots one (1) to twenty six (26) inclusive, and Lot twenty eight (28), Block five (5), and Lots one (1) to twenty eight (28) inclusive, Block six (6), Fairview South Addition.

Lots one (1) to twenty four (24) inclusive, St. Croix Lumber Company's Rearrangement of Block eight (8), Marshall's Addition to West St. Paul.

Lots fourteen (14) and fifteen (15), Block four (4), also the South half of Kough Street vacated adjoining said lots, Hazel Park Division, No. 4.

10-24-41  
COUNTY OF RAMSEY, MINN.  
ROBERT J. McCAFFERTY  
CLERK

WILLS PAID AND TRANSFER ENTERED  
(Fees collected pursuant to Laws 1935, Chapter 386, as amended, upon forfeiture of land to state for nonpayment of taxes)  
OCT 21 1941  
EUGENE J. HONCH, Auditor  
RAMSEY COUNTY, MINN.  
BY *[Signature]*

NO FROM THE YEAR 1941 ON THE FIRST DAY OF OCTOBER 1941  
Description of land: Said land is described by State and City of Saint Paul, Minnesota, as follows:  
payment of taxes, Laws 1935, Chapter 386, as amended.  
OCT 14 1941  
EUGENE J. HONCH, Auditor  
RAMSEY COUNTY, MINN.  
BY *[Signature]*

Lots one (1) to thirty (30) inclusive, Block ten (10), C. V. Bacon's Addition.

Lots one (1) to thirty two (32) inclusive, Block one (1) and Lots one (1) to thirty two (32) inclusive, Block two (2), J. N. Rogers 5th Addition.

Lots nine (9) to twenty two (22) inclusive, Block thirteen (13); Lots one (1) to thirty (30) inclusive, Block fourteen (14), and Lots nine (9) to twenty two (22) inclusive, Block sixteen (16), Butterfield Syndicate Addition No. 2.

(Except Avenues) all northerly of Edgcombe Road of North half of Southwest quarter (N $\frac{1}{2}$  of SW $\frac{1}{4}$ ) of Section fifteen (15), Township twenty eight (28), Range twenty three (23).

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, its successors and assigns, Forever, provided, however, that if said party of the second part ceases to use the land hereinabove described exclusively for public park, parkway and playground purposes, then this instrument shall be null and void.

IN TESTIMONY WHEREOF, the State of Minnesota has caused this deed to be executed in its name by the Commissioner of Taxation at the Capitol in the City of St. Paul, County of Ramsey and State of Minnesota, the day and year first above written.

In presence of:

K. E. Humphrey  
John M. Bacon

STATE OF MINNESOTA

BY

C. Howard Spæth  
Commissioner of Taxation

STATE OF MINNESOTA )  
COUNTY OF RAMSEY )

On this 9th day of October, 1941, before me personally appeared C. HOWARD SPÆTH, Commissioner of Taxation of the State of Minnesota, to me known to be the person who executed the foregoing conveyance in behalf of the State of Minnesota, and acknowledged that he executed the same as the free act and deed of said state pursuant to the statutes in such case made and provided.

K. E. Humphrey

K. E. HUMPHREY  
Notary Public, Ramsey County, Minn.  
My Commission Expires July 27, 1949.

Filed for record on the 4 day of Nov. A.D. 1941, at 11:10 o'clock A.M.

**Case Name:** Clear Wireless

**Case Type:** CUP

**Surrounding Land Uses**

Single and two family residential

**District Council Recommendation:**

Approval

**Correspondence**

Support:

Opposition: 1 letter

**History:**

The Zoning Administrator issued a Statement of Clarification in November of 2009 determining that broadband data service is substantially similar to cellular telephone service.

**Finding Summary:**

The applicant is proposing to locate a 100 ft monopole on the northern portion of the Eastview playground to support wireless communication technology. The antenna will be put at the location of an existing light standard and designed so that the light fixture can be attached at the same height as the previous fixture.

The standards and conditions for cellular telephone antennas is listed in 65.310; all conditions are met or do not apply. Except condition (h) which can be met. No screening or equipment enclosure is currently proposed but the applicant can work with the Parks Department to satisfy this requirement.

The standards and conditions for all conditional uses listed in 61.501 are all met.

**Recommendation:**

Based on the findings staff recommends approval subject to the following conditions:

1. A lease agreement is reached between Clear Wire and the City of Saint Paul;
2. The screening and concealment of ground equipment shall be approved by the City of Saint Paul, Department of Parks and Recreation;
3. If the antenna is no longer used for cellular phone/wireless communication service it shall be removed within one year as stated in section 65.310(j);
4. During the effective period of the lease, Clear Wire shall be responsible for removal or relocation of the antenna and monopole at Clear Wire's expense if required by the City of Saint Paul.





CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

December 22, 2009

Lawrence J. Coleman  
FMHC Corporation  
7400 Metro Boulevard  
Suite 260  
Edina, MN 55439

Re: Clear Wireless, LLC (Clearwire) Request for Statement of Clarification

Dear Mr. Coleman:

**Request for a Statement of Clarification**

We have reviewed your request for a Statement of Clarification as to whether Clear Wireless, LLC, (Clearwire) a wireless (broadband) data communications service provider, is substantially similar in character and impact to traditional cellular telephone service providers with antennas and equipment that are allowed subject to certain conditions throughout Saint Paul.

**Statement of Similar Use**

Based upon the provision of Saint Paul Legislative Code Sec. 61.106, it is our determination that Clearwire's proposed wireless data communication service and equipment is substantially similar in character and impact to traditional cellular telephone voice service and equipment.

**Findings in Support of Similar Use Statement**

This similar use determination is based upon the information that you provided during our Dec. 4th meeting in the DSI Zoning Office, and in your Dec. 7, 2009, Similar Use request letter.

Clearwire is a wireless data service provider which is entering the Twin Cities market with its wireless network, proposing 40 plus sites for Saint Paul and 480 plus sites for the metro area. It allows users wireless access to the internet from computer modems or through the modern generation of smart wireless phones. Some cellular telephone service providers, such as AT&T, Verizon and SPRINT, also provide internet access using their existing equipment.

Clearwire's installation will generally include three panel antennas each approximately one foot wide and four feet long. Each site will also include three microwave dishes that are approximately two feet in diameter, and an equipment shelter which houses the radios that translate the wireless signals to signals that can be used for the transfer of data over land lines (e.g., telephone lines of copper or fiber optic). It is anticipated that co-locating on existing telecommunications towers would be utilized where available.

Based upon the information you provided, we have made the following findings:

*(a) That the use is similar in character to one (1) or more of the principal uses permitted.*

Sec. 65.310 allows for cellular telephone antennas and equipment shelters for the transmission and reception of wireless telephone communications. Clearwire proposes using similar but smaller types of antennas and a smaller ground equipment building than for cellular telephone service. Clearwire would use microwave dishes for the transfer of wireless data communication from one dish to another. These are comparable to antenna panels except that the dishes are round cone shaped instead of rectangular panels and must have a "line of sight" from one dish to the next. Several of the traditional wireless cell phone voice providers have made equipment upgrades on sites in Saint Paul that will allow wireless data communications. Cellular telephone antennas are the closest thing in the zoning code to the wireless data communication antennas proposed by Clearwire.

*(b) That the traffic generated on such use is similar to one (1) or more of the principal uses permitted.*

Cellular antenna installations do not generate any measurable amounts of traffic. Clearwire owned wireless data installations would generate no more traffic than traditional cellular installations.

*(c) That the use is not first permitted in a less restrictive zoning district.*

This Statement of Clarification is not zoning district specific. Cellular telephone antennas are permitted in all zoning districts with conditions.

*(d) That the use is consistent with the comprehensive plan.*

Three overarching themes in the current Saint Paul Comprehensive Plan are Growth, including business development and jobs; Quality of Place, exemplified by the aesthetic attributes of the city; and Well-Being, which includes economic growth. The Land Use portion of the Comprehensive Plan calls for a balance of three factors – economy, community and environment: the goal is to meet the needs of each without jeopardizing the other two factors. Traditional wireless cellular antenna installations or Clearwire's new generation of wireless data antenna installations are not specifically addressed but are not inconsistent with the Comprehensive Plan.

Larry Coleman  
December 22, 2009  
Page 3 of 3

It is the policy of the Office of Safety and Inspections to inform affected neighborhood district councils of similar use determinations made by the Zoning Administrator. Since this decision affects the entire city, I am providing a copy of this similar use determination letter to all of the districts councils for their information.

Sincerely,

A handwritten signature in cursive script, reading "M. P. Montgomery".

Mary Montgomery  
DSI Inspector/ Zoning  
651-266-9088



December 7, 2009

Wendy Lane, Zoning Manager  
Department of Safety and Inspections  
City of St. Paul  
375 Jackson Street, Suite 200  
St. Paul, MN 55101-1806

Re: Clearwire Similar Use Determination and Request of State of Clarification

Dear Ms. Lane:

Clear Wireless, LLC (Clearwire) is a wireless service provider which is entering the Twin Cities market with its wireless network. Although this wireless service differs slightly from the traditional cellular telephone antennae installations, it is substantially similar in character and impact to the cellular telephone antennae regulated under Art. IV, Sec. 65.300 et seq. of the St. Paul Zoning Code. The specific requirements for a Similar Use Determination under Sec. 61.106 are analyzed below.

**(a) That the use is similar in character to one (1) or more of the principal uses permitted.**

The use of the Clearwire antenna network is similar in character to the use of a traditional cellular antenna network. Traditional cellular antenna networks are designed to provide voice telecommunications from a network of antennae to the end user through wireless radio waves and the Clearwire antenna network is designed to provide data telecommunications from a network of antennae to the end user through wireless radio waves. The definition of antenna in Sec. 65.310 of the St. Paul Zoning Code defines antenna as "A device consisting of metal, carbon fibre, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of radio waves in wireless telephone communications." The Clearwire antenna is substantially similar except that it is for the transmission and reception of radio waves in wireless data communications. Many of the traditional wireless carriers now also offer wireless data communications as part of their service. Clearwire also uses microwave dishes for the transfer of wireless data communications which is similar to the traditional panel antenna except that it is round in shape rather than an elongated rectangular panel. The Clearwire installations do differ from some of the traditional wireless carriers in that the Clearwire installation is usually smaller in size and uses less panels.



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Page Two

- (b) That the traffic generated on such use is similar to one (1) or more of the principal uses permitted.**

There is very little traffic generated in either the traditional wireless carrier site or the Clearwire site. Site visits are only needed once or twice per month and in emergency circumstances.

- (c) That the use is not first permitted in a less restrictive zoning district.**

The use of wireless data communications is not listed in the Zoning Code.

- (d) That the use is consistent with the comprehensive plan.**

The use of wireless data communications is not inconsistent with the comprehensive plan. This use is the evolution of wireless communications but is not specifically addressed in the comprehensive plan.

In addition to the above listed factors, a number of other questions have been posed regarding Clearwire, the service it provides and how the network will operate. These questions will be addressed in narrative form below.

Clearwire provides wireless data communications services to the general public through a network of antenna sites. These services can be received through either a computer modem or through hand held devices similar in character to the modern generation of wireless phones. These services are regulated by the FCC and copies of the FCC licenses have been enclosed for your reference. Although the wireless data communications are similar to the traditional carriers, it differs in that greater speed is available through the Clearwire service.

The Clearwire equipment is very similar to cell antennae in size, appearance and function. The ground equipment for Clearwire has dimensions of 54" x 25" x 25" and typically uses ground space of 7' x 7'. In contrast, the traditional carriers can have equipment shelters of up to 12' x 30' but the equipment serves the same function, translating the wireless signals to signals that can be used for the transfer of communications using land lines (e.g. telephone lines). The panels used by Clearwire



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Page Three

are smaller than those used by the traditional carriers and measure approximately 4' x 1' whereas traditional carriers may use panels as large as 8' x 1'. Combined with the typical Clearwire dish of a 2' diameter (Clearwire does not use dishes over 3'), the total size of the installation is typically about 6'. A standard Clearwire installation contains a total of 3 panels and 3 dishes and can contain as many as 6 dishes. In contrast, many of the traditional carriers can use as many as 12 or even up to 15 panels for a single site. While the Clearwire site is similar, it differs in that not as many panels/dishes are required for a site and the ground equipment is smaller. Equipment photos and plans have been enclosed.

Installation of the Clearwire equipment is very similar in character to that of the traditional wireless carriers. The antennae/dishes can be installed on existing telecommunications towers, rooftops, water towers or most places where traditional carriers would locate their sites. The separation requirements for Clearwire to locate its antennae/dishes is less than that required by the other carriers, usually 3-4', whereas the other carriers can require as much as 10' separation. Interference is strictly regulated by the FCC and no interference issues are anticipated (see the enclosed non-interference letter by the Clearwire Radio Frequency Engineer). The dishes do require "line of sight" communications which means that the dish from one site must be able to visibly connect to the dish on the neighboring site. Therefore, some dishes may require additional elevation as compare the panel antennae.

The anticipated coverage in St. Paul is for the entire City to receive coverage. Sites have approximately a 1 mile radius of coverage but some sites may have more or less depending upon the topography, trees and buildings in the area. A map showing the anticipated sites has been enclosed. These sites are preliminary in nature and may require some modification before the network design is finalized. The anticipated rate of installation is for installations to begin shortly after the New Year and to be completed by late summer. Network testing is anticipated by 10/1/10 and offering the service to the general public is anticipated by 11/1/10.


For the above stated reasons, the proposed use of Clearwire to install sites as part of an antenna/dish network in St. Paul is substantially similar in character and impact to the use of cellular antenna as regulated by Sec. 65.300 et seq. of the St. Paul Zoning Code.



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Page Four

Therefore, Clearwire respectfully requests that you issue a Statement of Clarification for the zoning and permitting of the proposed antenna/dish network. If you have any questions or are in need of additional information, please do not hesitate to contact me.

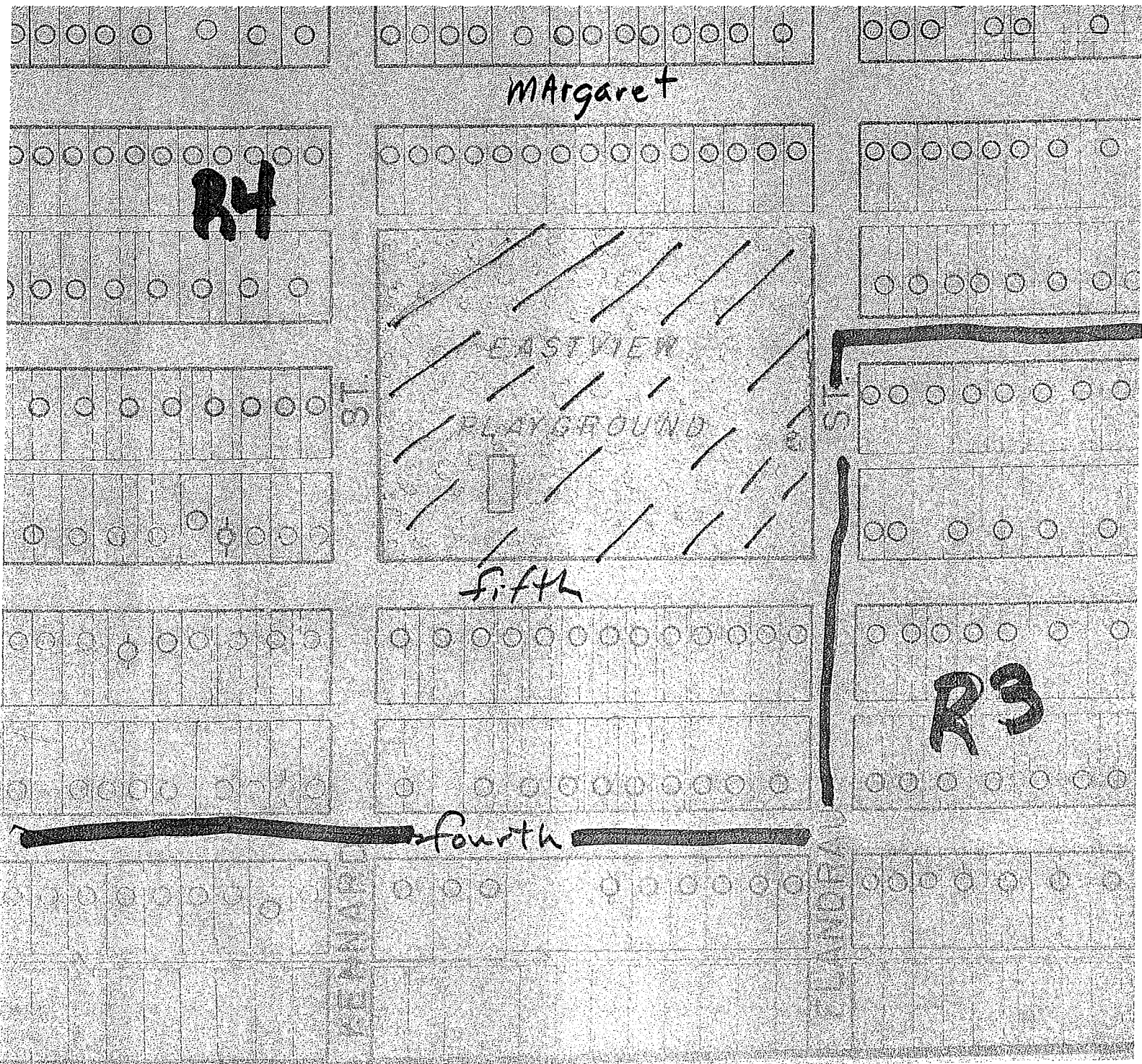
Respectfully Submitted,

  
Lawrence J. Coleman  
FMHC Corporation  
(651) 249-3866

Enclosures: RF Letter of Non-Interference  
Frequency Chart  
FCC Licenses  
Equipment Information

LJC/wo





APPLICANT Clear Wireless LLC  
 PURPOSE Conditional Use Permit  
 FILE # 10-116425 DATE 3-3-10  
 PLNG. DIST. 1 MAP # 15

SCALE 1" = 400'



#### LEGEND

zoning district boundary

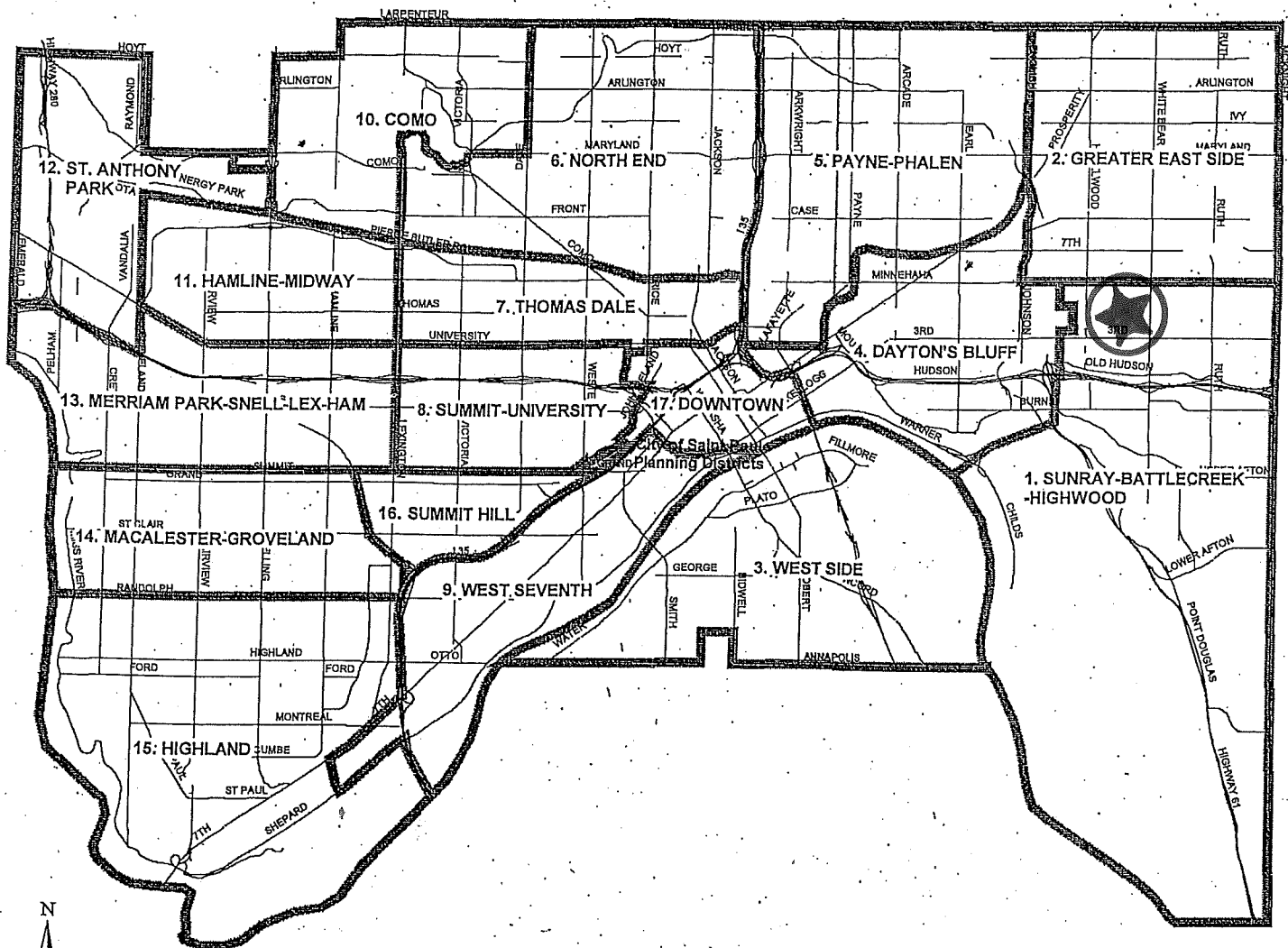
subject property

one family  
 two family  
 multiple family



commercial  
 industrial  
 vacant

# CITIZEN PARTICIPATION DISTRICTS



## CITIZEN PARTICIPATION PLANNING DISTRICTS

1. SUNRAY-BATTLECREEK-HIGHWOOD
2. GREATER EAST SIDE
3. WEST SIDE
4. DAYTON'S BLUFF
5. PAYNE-PHALEN
6. NORTH END
7. THOMAS-DALE
8. SUMMIT-UNIVERSITY
9. WEST SEVENTH
10. COMO
11. HAMLINE-MIDWAY
12. ST. ANTHONY
13. MERRIAM PK.-LEXINGTON HAMLINE
14. GROVELAND-MACALESTER
15. HIGHLAND
16. SUMMIT HILL
17. DOWNTOWN

10-116425